

ORDINANCE No. 2008-18-154

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, PROVIDING FOR A PROCEDURE FOR THE DISPOSITION OF LIENS AND FORFEITED PROPERTY; CREATING A LAW ENFORCEMENT TRUST FUND IN ACCORDANCE WITH §932.7055 FLORIDA STATUTES; AMENDING THE FISCAL YEAR 2007/2008 BUDGET TO ESTABLISH THE FUND; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, in accordance with §932.7055, when the City of Miami Gardens through its Police Department, obtains a final judgment granting forfeiture of real or personal property, the City is permitted to either retain the property for use by the Police Department; sell the property at a public action or to salvage trade or transfer the property to a public or nonprofit organization, and

WHEREAS, in order to expend the proceeds from forfeited property, the City is required to created a Law Enforcement Trust Fund where proceeds from the sale of forfeited property are to be deposited, and

WHEREAS, funds deposited into the Law Enforcement Trust Fund, and the interest earned on such proceeds can be used for school resource officers, crime prevention, safe neighborhoods, drug abuse education and prevention programs, or other law enforcement purposes, and

WHEREAS, the Chief of Police, through the City Manager, is requesting that the City Council establish a procedure for the disposition of liens and forfeited property and that the City Council establish a Law Enforcement Trust Fund for use by the City of Miami Gardens Police Department,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, as follows:

SECTION 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas Clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

SECTION 2. ADOPTION OF ORDINANCE: In accordance with §932.7055, the City Council of the City of Miami Gardens hereby establishes a procedure for the disposition of liens and forfeited property as follows:

**Section 1: Disposition of liens and forfeited property.**

- (1) When the City obtains a final judgment granting forfeiture of real property or personal property, if the estimated value of the property is \$5,000.00 or less, the City Manager, shall have the authority to:
  - (a) Retain the property for the City's use;
  - (b) Sell the property at public auction or by sealed bid to the highest bidder, except for real property which should be sold in a commercially reasonable manner after appraisal by listing on the market; or
  - (c) Salvage, trade, or transfer the property to any public or nonprofit organization.

If the estimated value of the property is more than \$5,000, the City Council shall determine the disposition of the property.

- (2) Notwithstanding subsection (1), all images and the mediums on which images are recorded, including, but not limited to, a photograph, video tape, diskette, compact disc, or fixed disk made in violation of s. 810.145, shall be destroyed by the Police Department, when the image and the medium on which it is recorded is no longer needed for an official purpose. The City may not sell or retain any image.

- (3) If the forfeited property is subject to a lien preserved by the court as provided in s. 932.703(6)(b), the City Manager, or his designee shall:
  - (a) Sell the property with the proceeds being used towards satisfaction of any liens; or
  - (b) Have the lien satisfied prior to taking any action authorized by subsection (1).
- (4) The proceeds from the sale of forfeited property shall be disbursed in the following priority:
  - (a) Payment of the balance due on any lien preserved by the court in the forfeiture proceedings.
  - (b) Payment of the cost incurred by the City of Miami Gardens Police Department in connection with the storage, maintenance, security, and forfeiture of such property.
  - (c) Payment of court costs incurred in the forfeiture proceeding.

**Section. 2 Establishment of Law Enforcement Trust Fund.**

A separate fund to be entitled the "Law Enforcement Trust Fund" is hereby established. Such Fund shall be administered through the City's Finance Department.

**Section. 3 Permitted use of funds.**

Such proceeds and interest earned therefrom shall be used for school resource officer(s), crime prevention, safe neighborhood, drug abuse education and prevention programs, or for other law enforcement purposes, which include defraying the cost of protracted or complex investigations, providing additional equipment or expertise, purchasing automated external defibrillators for use in law enforcement vehicles, and providing matching funds to obtain federal grants. The proceeds and interest may not be used to meet normal operating expenses of the Police Department.

**Section. 4 Procedure to expend funds.**

- (a) These funds may be expended upon the request of the Chief of Police, through the City Manager, to the City Council, accompanied by a written certification that the request complies

with the provisions of this subsection, and only upon appropriation to the Police Department by the City Council.

- (b) An agency or organization, other than the Police Department, that wishes to receive such funds shall apply to the Chief of Police for an appropriation and its application shall be accompanied by a written certification that the moneys will be used for an authorized purpose. The Chief of Police, through the City Manager, shall determine whether such requests should be provided to the City Council for further consideration. Such requests for expenditures shall include a statement describing anticipated recurring costs for the agency for subsequent fiscal years. An agency or organization that receives money pursuant to this subsection shall provide an accounting for such moneys and shall furnish the same reports as an agency of the City that receives public funds. Such funds may be expended in accordance with the following procedures:
  - 1. Such funds may be used only for school resource officer, crime prevention, safe neighborhood, drug abuse education, or drug prevention programs or such other law enforcement purposes as the board of county commissioners or governing body of the municipality deems appropriate.
  - 2. Such funds shall not be a source of revenue to meet normal operating needs of the law enforcement agency.
- (c) Any request for expenditures shall be placed on the next available agenda for the City Council for consideration. The City Council shall grant or deny the request based upon the criteria of this division and § 932.7055, Florida Statutes.

#### **Section. 5 Donation of Funds.**

- (a) If the Police Department acquires at least \$15,000 pursuant to the Florida Contraband Forfeiture Act within a fiscal year, the Department must expend or donate no less than 15 percent of such proceeds for the support or operation of any drug treatment, drug abuse education, drug prevention, crime prevention, safe neighborhood, or school resource officer program(s).
- (b) Notwithstanding the drug abuse education, drug treatment, drug prevention, crime prevention, safe neighborhood, or school resource officer minimum expenditures or donations, the City Council may agree to expend or donate such funds over a period of years if the expenditure or donation of such minimum amount in

any given fiscal year would exceed the needs of the City for such program(s). Nothing in this section precludes the expenditure or donation of forfeiture proceeds in excess of the minimum amounts established herein.

- (c) The City Council has the discretion to determine which program(s) will receive the designated proceeds, in accordance with the procedure outlined in Section 4(a).

**SECTION 3. BUDGET AMENDMENT:** The Fiscal Year 2007/2008

Budget is hereby amended to establish the Law Enforcement Trust Fund.

**SECTION 4. CONFLICT:** All ordinances or Code provisions in conflict herewith are hereby repealed.

**SECTION 5. SEVERABILITY:** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

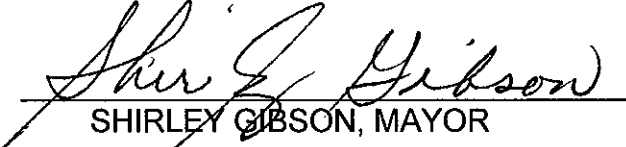
**SECTION 6. INCLUSION IN CODE:** It is the intention of the City Council of the City of Miami Gardens that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miami Gardens and that the sections of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed; provided, however, that Section 1 hereof or the provisions contemplated thereby shall not be codified.

**SECTION 7. EFFECTIVE DATE:** This Ordinance shall become effective immediately upon its final passage.

**PASSED ON FIRST READING ON THE 26<sup>th</sup> DAY OF MARCH 2008.**

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI  
GARDENS AT ITS REGULAR MEETING HELD ON THE 9<sup>TH</sup> DAY OF APRIL, 2008.

ATTEST:

  
SHIRLEY GIBSON, MAYOR

  
RONETTA TAYLOR, CMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ.  
City Attorney

SPONSORED BY: DANNY CREW, CITY MANAGER

MOVED BY: Vice Mayor Watson  
SECONDED BY: Councilman Gilbert

**VOTE: 7-0**

Mayor Shirley Gibson	<u>  x  </u> (Yes)	<u>    </u> (No)
Vice Mayor Barbara Watson	<u>  x  </u> (Yes)	<u>    </u> (No)
Councilman Melvin L. Bratton	<u>  x  </u> (Yes)	<u>    </u> (No)
Councilman Aaron Campbell	<u>  x  </u> (Yes)	<u>    </u> (No)
Councilwoman Sharon Pritchett	<u>  x  </u> (Yes)	<u>    </u> (No)
Councilman André Williams	<u>  x  </u> (Yes)	<u>    </u> (No)
Councilman Oliver Gilbert III	<u>  x  </u> (Yes)	<u>    </u> (No)

SKD/

# City of Miami Gardens

1515 NW 167<sup>th</sup> Street  
Building 5, Suite 200  
Miami Gardens, Florida 33169



Mayor Shirley Gibson  
Vice Mayor Barbara Watson  
Councilman Melvin L. Bratton  
Councilman Aaron Campbell Jr.  
Councilwoman Sharon Pritchett  
Councilman Oliver G. Gilbert III  
Councilman André Williams

## Agenda Cover Page

Date: April 9, 2008

Fiscal Impact: No X Yes

(If yes, explain in Staff Summary)

Funding Source: N/A

Contract/P.O. Requirement: Yes No X

Sponsor Name/Department:

**Dr. Danny O. Crew, City Manager**

Public hearing X

Ordinance X

1st Reading ☐

Advertising requirement:

RFP/RFQ/Bid

Quasi-Judicial ☐

Resolution

2nd Reading X

Yes X No

## Title

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, PROVIDING FOR A PROCEDURE FOR THE DISPOSITION OF LIENS AND FORFEITED PROPERTY; CREATING A LAW ENFORCEMENT TRUST FUND IN ACCORDANCE WITH §932.7055 FLORIDA STATUTES; AMENDING THE FISCAL YEAR 2007/2008 BUDGET TO ESTABLISH THE FUND; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

## Staff Summary

In accordance to State Statute 932.705, the City must establish a trust fund to account for all forfeiture funds received through the efforts of the City's new police department. This fund must also keep track of all authorized expenditures from these funds. In addition, any expenditure of these funds must be requested by the Police Chief and approved by Council through a resolution. Since the Department expects to receive forfeiture funds in the near future, we need to establish this fund to be in compliance with State laws. This Ordinance establishes a procedure for the disposition of liens and forfeited property. In addition, it amends the Fiscal Year 2007/2008 Budget to create the Law Enforcement Trust Fund.

## Recommendation:

Staff recommends the Council approve attached Ordinance.

**I-2) ORDINANCE  
SECOND READING**  
Creating the Law Enforcement  
Trust Fund